IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Leave to Appeal Application No.30 of 2004

State of Uttaranchal

.....Applicant

Versus

Pratik S/o Gopal R/o Ghat Road, P.S. Rishikesh, Distt. Dehradun

.....Respondent

Dated: December 28, 2007

Sri M.A. Khan, learned brief holder for the State

HON. DHARAM VEER, J.

This criminal appeal, preferred u/s 377 of Code of Criminal Procedure, 1973 (*hereinafter to be referred as Cr.P.C.*), is directed against the judgment and order dated 15.09.2004 passed by Sessions Judge, Dehradun in Sessions Trial No. 149 of 2002, whereby the learned Sessions Judge has convicted the respondent under Section 323 of Indian Penal Code, 1860 (*hereinafter to be referred as I.P.C.*) and sentenced him for six months years R.I. and fine of Rs.1,000/- and in default of payment of fine, 15 days imprisonment was awarded.

The present appeal has been preferred by the State for the enhancement of sentence as awarded by the trial court. I have perused the judgment and order dated 15.9.2004 passed by the learned Sessions Judge, Dehradun. The learned Sessions Judge heard the respondent/accused on the point of sentence and the learned Sessions Judge after considering the fact that the respondent was a poor person and was a school going student, awarded sentence of six months R.I. and fine Rs.1,000/- and in default of payment of fine, 15 days further imprisonment.

After considering the entire facts and circumstances of the case and particularly considering the fact that the respondent/accused was a poor boy and was a

school going student and there was only one injury to the injured, the Court is of the view that it is not a fit case where the sentence awarded to the respondent/accused may be enhanced. The sentence as awarded by the trial court to the respondent/accused on the basis of facts and circumstances discussed above is just and proper and there is no need to interfere with the said judgment and order passed by the trial court for the above-said reasons and grounds.

For the reasons recorded above, the leave to appeal application and appeal, both are dismissed accordingly.

(Dharam Veer, J.)

Rajeev Dang